

## LACTATION ACCOMMODATION PROGRAM - FAQs

The County of Los Angeles recognizes that breastmilk is the optimal food for growth and development of infants and encourages employees and management to have a positive accepting attitude toward employed mothers and breastfeeding. The County of Los Angeles promotes and supports breastfeeding and the expression of breast milk by employees who are lactating when they return to work. Breastfeeding reduces serious acute and chronic conditions, including obesity. Healthier employees and babies mean fewer employee absences and lower health care costs.

All County departments must provide a reasonable amount of break time and make reasonable efforts to provide the use of appropriate space for employees who desire to express breast milk for their infant child during work hours (PPG 705).

### *Frequently Asked Questions (FAQ)*

#### **1. Time**

##### **a. Is there an end date to how long we provide pumping breaks?**

Breastfeeding is most effective when done exclusively over a long period of time. The American Academy of Pediatrics recommends that a baby breastfeed for at least the first year of life or longer.

There is no upper limit for how long an employed mother may request a lactation accommodation. Typically, employed mothers need more time for pumping in the first 9-12 months of her baby's life. After table food has been introduced and assimilated into the baby's diet, an employed mother's need for pumping may diminish.

Some mothers may need to continue pumping into the second year of their baby's life and beyond. This is a protected right under California's state law §1030-33.

(California Labor Code Section 1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid.)

##### **b. What if an employed mother requests extra break time for pumping?**

An employed mother can take as many breaks as she needs to effectively express breast milk for comfort and milk production maintenance. Periodically, an employed mother may need extra pumping breaks to help maintain or increase her milk supply due to illness or changes in the baby's eating habits.

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### c. What is a reasonable amount of time for a pumping break?

Many mothers have found that they need at least 20 minutes to pump.

A pumping break also requires time to set up the pump, undress, pump, store, label and cool milk, clean pump parts and dress.

Initially, as employed mothers are learning how to navigate pumping, they may require more time. As they become more experienced and their bodies learn to respond to the pump, they become more efficient.

### d. What if an employee is taking too much time to pump?

Some women may require more time to pump than others, especially in the beginning. Their pumping time is a protected right. There isn't a "right amount of time" for pumping. It is unique to each woman.

The law requires that the designated space for pumping be "in close proximity" to the employee's work area. The time that it takes to get to the designated rest/pump area is not calculated into the employee's break time.

Sometimes it takes longer for women to pump because they do not have access to an efficient electric pump. Pumping may take longer, if they are hand expressing or using a manual or single sided pump. (See item number 3 for more information about pumps.)

### e. How many times a day will an employed mother need to pump?

Most employed mothers can take care of pumping during their regularly scheduled rest and meal periods.

A typical pumping schedule may be:

8:00 am	Arrive at work
9:00 am	Rest Break, pump 20 minutes
12:00 pm	Lunch break, pump 20 minutes, eat lunch
3:00 pm	Rest Break, pump 20 minutes
4:00 pm	Leave work

Periodically, an employed mother may need extra pumping breaks to help maintain or increase her milk supply, due to illness or changes in the baby's eating habits.

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### **f. Are we required to pay for pumping breaks?**

For covered employees, breaks may be taken concurrently with their paid rest breaks. Any time beyond their regularly scheduled paid rest breaks may be unpaid.

Covered employees may use earned accrued time to cover the unpaid break time. Managers, supervisors and employee may also agree, based on the needs of service, to adjust the employee's work schedule to cover the unpaid break time.

### **g. If my newly hired employee makes a request for a lactation accommodation, do I need a medical verification?**

No.

## **2. Space**

### **a. What if the most private space that we have is an unused bathroom or anteroom to a bathroom?**

Sometimes these spaces can be appropriate and some employed mothers are comfortable with those accommodations. However you must consult with DHR, Employee Benefits Lactation Accommodation Program staff, before you designate a space within or connected to a bathroom, because of certain restrictions in the Federal Law.

### **b. Can an employed mother use her own private office to pump?**

Yes, if the office can be made private enough by closing doors and obscuring windows.

### **c. Can a mother sit at her desk in her cubicle and pump?**

Some employed mothers and her coworkers have found this arrangement to be an acceptable and efficient way to complete work and take care of pumping. They create privacy with curtains, small pop up tents or by using privacy covers. This is sometimes a good alternative when no other alternative space is available.

Some employed mothers will not find this to be private enough. Other co-workers may be bothered by the sound of the pump. The key is to find the reasonable accommodation that meets the needs of both the mother and the others in the direct work area, being sensitive to all parties.

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### **d. Can an employee leave the worksite and pump in their private vehicles?**

During covered employees' meal period, they are permitted to leave the worksite.

During covered employees' rest breaks, employees generally are restricted to staying within the work area and using the designated rest area.

If identifying an appropriate space is the issue, please contact DHR, Employee Benefits Lactation Accommodation Program staff.

### **e. What types of rooms are acceptable as a lactation space?**

Empty offices and conference rooms are all excellent locations if the space can be made private enough by closing doors and obscuring windows.

It is also reasonable for a supervisor to vacate his or her own office to accommodate the pumping, if no reasonable alternative is available.

Some storage and filing spaces can be utilized, provided that they are a low-traffic space and can be made private. The storage spaces must not contain noxious or hazardous materials.

Copy rooms are a possibility; however, because of their frequent use, they may be undesirable as it may interrupt operations.

### **f. Must we designate one space and only use that one space?**

The law requires that we provide reasonable accommodations, but that does not mean we have to designate only one space.

The County has asked each department to identify space available and a list of designated space is available through DHR, Employee Benefits Lactation Accommodation Program website at <http://hr.lacounty.gov>.

In some cases, those designated spaces may not be the space in closest proximity to the employee's work area. The goal is to make reasonable accommodations. Please work with the employee to find the most reasonable accommodation, in close proximity to her work area.

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**g. I have an employee that would like to bring her baby to work and direct breastfeed? Can we accommodate this?**

The law and the County's policy does not cover bringing a baby to work and direct breastfeeding. It is up to the discretion of each Department to decide on the appropriateness of having an employee's baby at work, taking into consideration existing County policy regarding family visitation at work.

Generally, a covered employee is free to leave during her meal period. If her baby was brought to her, a covered employee would be free to direct breastfeed during her meal period in any place that she is publicly allowed to be.

(California Civil Code § 43-53. 1997 Section 43.3 of the Civil Code.

Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present.)

### **3. Pumps**

**a. Are we required to provide employees with pumps?**

No; however, providing access to information about how to get a good pump is helpful. Some mothers may lack resources to pay for a pump. They may be able to get a FREE pump through WIC (Women, Infants and Children Program) at <http://www.cdph.ca.gov/programs/wicworks/pages/default.aspx>.

Employees should also consult their health care providers about access to lactation services, including access to breast pumps.

For more information on how to get a pump, please refer to the DHR, Employee Benefits Lactation Accommodation Program website at <http://hr.lacounty.gov>.

**b. What if an employee wants to pump in a private space, but her pump can be heard and annoys other employees?**

Many mothers have found that putting a heavy blanket over the pump muffles the sound.

**c. Can we provide a multi-user, double electric pump in our designated lactation space?**

Yes; however, please contact DHR, Employee Benefits Lactation Accommodation Program staff, for information on how to manage and supervise the maintenance of a designated pump.

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### **d. What is the best pump?**

Choosing a pump is like choosing a pair of shoes. What is right for one person, may not work for another.

Many mothers find that a hospital grade, double electric pump is the most efficient. Others purchase consumer grade double electric pumps and are successful.

If a mother does not have access to a high-grade pump, her break times may be more frequent and last longer. Some mothers are just as efficient with a manual pump or expressing milk by hand. It depends on the mother.

### **4. Non-Traditional Worksites**

#### **a. Can employees pump in their cars (i.e., employees working in the field, driving from location to location, or on patrol)?**

Pumping in cars may be appropriate, if it is within the employee's private vehicle. (See 2(d).) A list of dedicated space within County facilities that are available to County employees will be made available through the DHR, Employee Benefits Lactation Accommodation Program website at <http://hr.lacounty.gov>.

Employees should refrain from pumping in County vehicles, unless it is a reasonable accommodation that has been arranged in advance with your department's Return-to-Work Coordinator, and in consultation with DHR, Employee Benefits Lactation Accommodation Program staff.

#### **b. How does the employee in a non-traditional worksite make a request for reasonable accommodations?**

An employee from a non-traditional worksite enters into an "interactive process" with the department's Return-to-Work Coordinator to identify reasonable accommodations. (See PPG 705.)

Please review PPG 705, section 4(a) regarding notification. Return-to-Work Coordinators, Supervisors and the employed mothers have several opportunities to communicate regarding the need for lactation accommodations.

#### **c. What are some "reasonable accommodations" for an employee who works in a "non-traditional" worksite?**

Reasonable accommodations could be similar to those employees who have a temporary disability. For example, employees can request a "limited duty assignment", job restructuring, modified work schedule, or reassignment to a vacant position.

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Please review the Fair Employment and Housing Act, at Government Code section 12926, subdivision (o), for reasonable accommodation for persons with disabilities.

**d. Do we need medical certification for an employee who requests a “limited duty assignment” for lactation accommodations?**

No supporting medical certification is required.

The employed mother simply asserts her right to a lactation accommodation, and requests a reasonable accommodation of "limited duty assignment" so that she is in a facility that can provide her with space and time to facilitate her milk expression.

**e. I have an employee who works in the field and would like to schedule her breaks so that she goes home to direct breastfeed? Can we accommodate this?**

The law and the County's policy require employers to provide reasonable accommodations in the workplace for pumping breaks. Covered employees are free to leave during their meal period. The Return-to-Work Coordinator should consult with DHR, Employee Benefits Lactation Accommodation Program staff, regarding a request like this. In some cases, this scenario may prove to be the most productive and efficient solution, providing that there is reasonable time monitoring in place. Regardless, a decision for this scenario should be made in consultation with DHR.

**f. I have an employee whose job involves the use of chemicals. Is she prohibited from working with chemicals while breastfeeding?**

OSHA does not have guidelines regarding exposure to hazardous chemicals and pregnancy or lactation. However, all employers are required to communicate with their employees regarding their potential exposure to hazardous materials through Hazardous Communication Regulations.

Employees who are concerned about their exposure can see their primary health care provider to obtain a medical evaluation. If the employee's health care provider provides a note requiring that the employee limit exposure to hazardous materials, Cal/OSHA will support that request.

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### **g. What about employees who are employed in public safety (i.e. sworn officers and fire fighters) who are called out on long emergencies?**

Employed mothers who work in public safety are aware of their job requirements. Many employed fire fighters and sworn officers have combined breastfeeding and working successfully. In many cases, temporary re-assignment of duties is considered.

Return-to-Work Coordinators are encouraged to utilize the interactive process to find suitable solutions. The goal is to accommodate the employed mother.

### **h. Is it really possible for sworn officers and fire fighters to combine public safety jobs and breastfeeding?**

Yes! It isn't always easy, which is why having a supportive employer is a critical component to an employed mother's success.

Please review the list of resources available at DHR, Employee Benefits Lactation Accommodation Program website at <http://hr.lacounty.gov>, for suggested reading and community support.

## **5. Miscellaneous**

### **a. Can I require medical certification that an employee is lactating if I suspect she is not? What if I never see her with a pump or expressed breast milk?**

If you have concerns that an employee no longer needs a lactation accommodation, then contact the DHR, Employee Benefits Lactation Accommodation Program staff, with the details regarding your concern.

### **b. I gave an employee a copy of the policy when the employee came back to work and the employee advised me that she is not breastfeeding and would not need an accommodation. She asked me why there isn't a program to support her choice. How do I respond?**

First, congratulate the employee for becoming a parent and welcome her back to work.

Second, explain that the DHR, Employee Benefits, Lactation Accommodation Policy and Program supports the County's policy to promote breastfeeding as a public health imperative and to comply with both Federal and State Law. As an employer, we are required to provide lactation accommodations to women who need pumping breaks.



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Lastly, the "Preparing for Baby!: An Employee Benefits Checklist" is an excellent tool to provide to your employee to identify the many benefits and resources available to our families.

**c. I have an employee who makes mooing sounds and other comments to my lactating employee. How do I handle this?**

Please refer to PPG 705, section 6, "Atmosphere of Tolerance" and **TAKE IMMEDIATE ACTION** to correct the inappropriate behavior.

As per the policy, "Any incident of harassment of a breastfeeding and/or lactating employee will be addressed in accordance with the County's policies and procedures."

**d. I have an employee who has complained that our lactating employee is getting a special benefit of longer breaks? How can I handle this situation?**

Co-worker support is critical to the success of an employed mother in breastfeeding to healthcare recommendations. Provide a copy of the policy to the complaining employee and use the [Brochure](#) to describe the benefits of supporting the employed mother to continue breastfeeding.